

# Legal English in an Advanced Business English Course in Croatia: Identifying and Resolving Ambiguities

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*Legal English (LE) plays a significant role in the syllabi of advanced courses in Business English (BE), underlining the growing need for teachers to make their students aware of nuances of meaning in three interrelated disciplines: language, business and law. This calls for a teaching approach characterised by Content and Language Integrated Learning (CLIL) supported by the interdisciplinary co-operation of the teacher with experts in business and law.*

*The paper discusses possible sources of terminological confusion and misinterpretation in elements of BE syllabi that clearly show overlaps between the language of business and that of law: the establishment of a business (company formation) and company capitalisation, management and corporate governance, and fundamental changes in a company (mergers and acquisitions). It presents reasons for current ambiguities, i.e. the impact of different legal traditions and systems (continental law vs. common law), differences in business and legal interpretations, and terminological ambiguities in Croatian (legal interpretation vs. general language, and ambiguities within national legislation). Specific examples of terminological difficulties in the above-mentioned fields are accompanied by suggestions on how to resolve common dilemmas.*

**Key words:** Legal English, Business English, terminology, ambiguities

## **1. Introduction**

This paper is the result of an attempt to resolve a number of terminological ambiguities present in the day-to-day work of teachers of English for Specific Purposes (ESP). In this particular case, the focus is on an advanced course in Business English (BE) involving interpreting and teaching legal terms commonly used in business. The paper attempts to provide answers to a number of terminological dilemmas, but also aims to share advice on what to focus on when working with students in a local business environment. The local environment in question is Croatia, yet the authors believe that due to the complexity of the field of law and its different traditions, the dilemmas presented here are often found in ESP classes across the world.

In writing the paper, the authors have been encouraged by two relatively recent events: one is the publication of a course book on Legal English in a commercial environment (Krois-Lindner 2007) and the other is the Tempus project “Foreign Languages in the Field of Law” within whose framework the international conference “Curriculum, Language and the Law” was organised in Dubrovnik in September 2008. The impact of both events is important in better understanding the nature of a paper whose authors seemingly belong to unrelated fields – a law teacher and a teacher of Business English, both from the Faculty of Economics and Business at the University of Zagreb. As a result, the paper has a strong interdisciplinary approach combining the broad fields of language, law and business, often in a comparative way.

Credit should be given to the course book in question for the concise but thorough presentation of legal issues in business and their linguistic aspects. Thanks to its publication, awareness has been raised of the prominence of law in commercial environments and of the need for ESP teachers to understand it better. In addition, the effort put into gathering teachers of English in a series of Tempus workshops dealing with language and law has proved successful not only in identifying overlapping areas of research and teaching in the two fields, but also in encouraging ESP teachers to introduce elements of Legal English into their classes where necessary.

This, however, is difficult to do, as it requires a significant amount of specialist knowledge. English for law is a field that has long been acknowledged as presenting particular difficulties for ESP teachers because of the close interplay between content and language (Gibbons 1999, Tiersma 1999). Legal terms denote concepts and cannot be translated without a conceptual understanding of the observed legal system as a whole (Northcott; Brown 2006). It is therefore not always possible to find perfectly matching pairs of legal terms when translating into another language. Due to the differences in legal rules between national legal orders, the translation of legal terminology with a precise legal meaning in one legal system into another language is necessarily imprecise, and this imprecision increases the more distinct the legal orders become. “*Les vraies difficultés sont dues [...] au fait que le rapport entre mot et concept n'est pas le même dans toutes les langues juridiques*”, remarks Rodolfo Sacco (1987:50), which suggests that BE teachers should seek help from legal professionals with expertise in comparative law.

### 1.1 How much should a BE teacher know about law?

In addition to a linguistic background, a BE teacher may have informally (or formally) specialised in business and is mostly able to cope with business terminology. However, such competences do not suffice in matters of law, and advice should be sought from a lawyer.

A lawyer needs to be precise. Precision is required by the system of law itself, which owes its durability to its coherence. However, a lawyer's precision may sometimes seem exaggerated to non-lawyers. For example, a lawyer (at least a Croatian one) will insist that five types of company exist under the Croatian Companies Act and that they ought to be properly called *trgovačka društva*. Few non-lawyers would have sympathy for such insistence. Most ordinary people would just say *firma*, *kompanija*, or, if they were ambitious, *korporacija*, and business students are no exception in this regard.

BE teachers may not need to possess a lawyer's precision, but they should be able to discern potential traps between the source and target languages, and possibly find solutions to them. More importantly, they should make their students aware of the dangers of misinterpretation and other types of ambiguity. Of course, less ambitious ESP teachers could question the need to master such a skill arguing that "after all, ESP is primarily about language teaching and not about teaching business or law". While this statement is largely true, it is hard to ignore David Graddol's warning that English has become "a universal basic skill" (Graddol 2006a), which leads to "the changing of the role of ... teachers of English", reflecting "a need to move beyond English ... and ... to acquire additional skills as English is less often taught as a subject of its own" (Graddol 2006 b).

Graddol's point is further confirmed by the increasing presence of Content and Language Integrated Learning (CLIL) in education. This involves students learning a subject through the medium of a foreign language (e.g. learning history in German). In CLIL, "language is used as a medium for learning content, and the content is used in turn as a resource for learning languages" (European Commission). ESP shares a lot with CLIL. Firstly, specialist content is also a medium for learning specialist language in this kind of teaching, and secondly, ESP students' possession of specialist knowledge requires ESP teachers with a considerable knowledge of a field they have no formal background in.

The question arises at this point of how much a teacher of Legal English or Business English should know about law, or what makes the teacher's competence different from that of a lawyer. Part of the answer can be found in Susan Šarčević's definition (2001:76) of the legal competence required for legal translators:

[... ] legal translators must possess not only language competence but also considerable legal competence. In addition to a working knowledge of legal terminology, legal competence presupposes an extensive knowledge of both the source and target legal systems, a thorough understanding of the structure and operation of legal texts and legal provisions, drafting practices and even the methods of interpretation.

Admittedly, the stakes are not as high for ESP teachers as they are for legal translators “*car la traduction est aussi loi*” (Legault 1977). This is not the case in teaching, yet certain parallels can be established. The two professions, legal translation and teaching ESP, share the same linguistic background, are in a position to explore a new discourse in the field of law, and are both in charge of mediating it to a third party (Northcott; Brown 2006). Of course, unlike the legal translator, ESP teachers may not need to have an extensive knowledge of both legal systems. However, they should come as close as possible to understanding comparative law without neglecting teaching as their primary concern.

Consequently, three levels of legal competence relevant for advanced ESP classes can be established: the specialist's (lawyer's), the language teacher's and the student's. Firstly, in matters of understanding the content of ESP classes more closely, a BE teacher is likely to consult a legal professional with full legal competence both in the source and target legal systems. Such a specialist should have a mastery of terminology in both systems and an ability to assess the equivalence of source and target terms - the latter undoubtedly a skill beyond a language teacher's competence.

On the other hand, in understanding terms and concepts both in the source and target languages, the ESP teacher should be able to identify, if not always resolve, possible terminological ambiguities (source-target) and subsequently address the issue with a legal professional. Most importantly, language teachers should keep raising students' awareness of the dangers involved in a comparative approach in the field of law, as this is an area in which differences in legal systems often lead to different interpretations of seemingly equivalent terms.

Finally, what level of legal competence should we expect from business students? Ideally, business students should understand English legal terms used in business, and should also be able to describe, at a fairly general level, legal concepts commonly present in international

business, preferably using the appropriate terms in English. Moreover, they should be aware of potential dangers of misinterpretation and should know how and where to find answers once they come across terminological ambiguities.

## 2. Reasons for ambiguities

Let us now examine possible reasons for current ambiguities in Croatian/English legal terminology used in business. The sources of confusion should be searched for in the impact of different legal traditions and systems (continental law vs. common law) and the terminological incongruence between them (Šarčević 2000), but also in terminological problems within the same language and the same jurisdiction, which in this paper means Croatian jurisdiction. This latter point refers to occasional inconsistencies between business and legal usage of terms, differences between legal terms and their meanings in general language, and finally, terminological ambiguities within the Croatian legal system.

### 2.1 Different legal systems and traditions

The Croatian legal system is part of a wider family of continental European legal systems, and is particularly close to the German and Austrian tradition. Types of company, rules governing their internal structure and basic legal principles are therefore similar in German, Austrian and Croatian company law. On the other hand, due to differences between continental and common law, the translation of Croatian legal terms into English can be difficult, particularly in company law. To begin with, a different classification of types of business is used in common law systems, and the characteristics of the particular types of company almost rule out the possibility of finding their exact equivalencies in continental law systems. Students must therefore be instructed that the meaning of legal terms depends on the legal order where they are being used. Moreover, Business English teachers should have knowledge of the precise meanings of legal terms in both legal orders, as well as an awareness of the differences between various legal systems relevant to their classes.

However, although at first glance it may seem that company law differs considerably across jurisdictions to the extent that teaching terminology, especially across common law and continental law, represents an insurmountable problem, another look gives a different perspective. While at a more detailed level these two systems do differ considerably (and this is also true for separate jurisdictions within each legal system), there are several common principles (concepts) that both systems share and that are embedded in the systems as such.

Language teaching should therefore focus on terminology related to internationally recognisable legal principles and should not insist on accurate terms specific to the local legislation. A good example from company law might be the principle of ‘liability’ (responsibility to cover a company's legal debts or obligations that arise during the course of business operations) as one of the key concepts in company law. In this case, a desirable learning outcome for students would be their full understanding of this legal principle in order to apply it where necessary, be it *Ltd.* in the UK, *Einzelgesellschaft* (sole trader) in Germany, or *d.d.* (joint-stock company) in Croatia. In other words, in language classes students should have a clear understanding of what the general principles stand for (*e.g.* ‘registration requirements’, ‘incorporation’, ‘ownership’, ‘start-up capital’, ‘control of the business’, ‘profit sharing’, ‘liability’, ‘disclosure’) rather than which of the principles apply to specific types of company within a particular legal framework.

## 2.2 Business interpretation vs. legal interpretation

In addition, the fact that business and law often share a number of terms may represent another source of terminological confusion for non-specialists. The two fields, either in English or in Croatian, do not always have identical interpretations of the same terms, and neither do they use them in the same way, which requires thorough checking and cross-checking on the part of a BE teacher. A typical example is the distinction between ‘mergers’ and ‘acquisitions’ (M&A), which will be discussed later in this paper.

## 2.3 Legal interpretation vs. general language

The polysemic adjective ‘public’ (*javno* in Croatian) best illustrates ambiguities resulting from the use of a term apparently belonging to general language in a specialist context (business or legal). For an ordinary citizen, ‘public’ correctly implies something related to public needs, which affects the community as a whole and is therefore of public concern. A first-year student of business will also know that the expression ‘public sector’ (*javni sektor*) will involve state-owned companies and institutions, as it is in the nature of government to care for public needs. However, a non-native speaker of English will at first find it hard to understand that ‘public companies’ are not those belonging to the public sector, but those whose shares are available to all members of the general public and which are publicly traded on the stock exchange. Such companies have previously decided to ‘go public’ and they have embarked on an ‘initial public offering’ (IPO).

Having resolved the above-mentioned ambiguities in Business English, a BE teacher in Croatia should be even more careful when making students aware of the dangers of the comparative approach. On top of the meanings mentioned above, in Croatian, according to the Securities Market Act (no longer in force as of January 1, 2009) a ‘public company’ (*javno dioničko društvo*) was one that publicly offered its shares and/or one that had over one hundred shareholders and capital of over thirty million kuna. Although the *javno trgovačko društvo* no longer exists legally, it is likely to continue its life in language for some time, which a BE teacher should know of. The adjective *javno* (public) is additionally used in *javno trgovačko društvo* (a business organisation in Croatia close to business partnerships in common law) where ‘public’ refers to the publicly disclosed identity of the partners. Needless to say, three different business/legal interpretations in English and five in Croatian clearly demonstrate the need for a considerable knowledge of legal content in language classes.

#### 2.4 Ambiguities within the Croatian legal system

Ambiguities concerning the exact meaning of specific legal terms can also be due to terms used within the same legal system. Examples can be taken from Croatian legislation where different terms are sometimes used to describe similar business concepts.



For instance, as already mentioned, in general language, both in English and in Croatian, a range of words can be used to denote an entity (legal and/or natural) operating on the market, namely, a ‘trader’ (*trgovac*), ‘company’ (*trgovačko društvo*), ‘firm’ (*tvrtka*), ‘corporation’ (*korporacija*), ‘business’ (*posao, firma*), ‘enterprise’ (*poduzeće*), ‘entrepreneur’ or ‘undertaking’ (*poduzetnik*). In the Croatian Companies Act, a distinction is made between a ‘trader’, a ‘company’ and a ‘firm’. ‘Trader’ (*trgovac*) is a broader term covering a legal or a natural person that on a permanent basis independently conducts commercial activities for profit, and includes both various types of company (legal entities) and also sole traders (natural persons). ‘Company’ (*trgovačko društvo*) is used to denote specific types of business organisation, such as *d.o.o. (društvo s ograničenom odgovornošću)*, or *d.d. (dioničko društvo)*, while a ‘firm’ (*tvrtka*) is the name under which a company carries out its business.

The Croatian term *poduzetnik* can literally be translated into English as ‘entrepreneur’ or ‘undertaking’. However, ‘entrepreneur’ is a general term and not a legal expression used in Business English and is therefore not a subject of this paper. The term ‘undertaking’ (*poduzetnik*) is broadly used in the Croatian competition law (*Zakon o zaštiti tržišnog natjecanja*) for any legal or natural person performing an economic activity if this activity produces an effect on the domestic market, and in tax legislation for legal entities or natural persons carrying out business activities on an independent, permanent and for-profit basis (*Opći porezni zakon*).

In addition, while the Croatian Companies Act uses the term *dioničko društvo* (d.d.) for a joint-stock company, the Croatian Securities Market Act (*Zakon o tržištu vrijednosnih papira, Art. 114, no longer in force as of January 1, 2009*) has introduced the term *javno dioničko društvo* for a publicly-quoted company, which, contrary to popular belief, is not the same as a public limited company in the UK (see 3.1.2).

### 3. Common dilemmas

Several elements of BE syllabi tend to confuse language teachers due to overlaps between the language of business and the language of law in such areas. The following examples illustrate areas mentioned above, *i.e.* company formation (types of business organisation) and company

capitalisation, management and corporate governance, and fundamental changes in companies (mergers and acquisitions).

### 3.1 Types of business organisation

Types of business organisation vary across jurisdictions. Difficulties already arise when trying to translate the names of various types of company from Croatian into English. As previously mentioned, due to the differences in legal traditions and systems (continental vs. common law), any translation is necessarily imperfect. Translation of names of different company types into English is complicated further by the fact that there are differences between the UK and US, so there is no unified company law terminology in common law itself.

However, the difference between specific types of business in various legal systems and different jurisdictions (e.g. Croatian, German, UK) should not be overemphasised. The universal purpose of applicable legal rules in all legal systems and jurisdictions has been to provide an appropriate framework for doing business and thus resolve problems common to all countries at a similar stage of development and with similar traditions. Common solutions to universal problems are also reflected in language, and there are many similarities or even cases of equivalence which can be identified in company law terminology.

Yet, the inability of non-experts to grasp the complexity of company law often leads to an oversimplification of terminology and misinterpretation in language teaching, as it is easy to establish false pairs and take lexical or structural similarity for conceptual equivalence. To avoid such mistakes, it is necessary for a Business English teacher first to understand the basics of company law in both the source and target language/jurisdiction and then to focus on the language of shared principles (see 2.1).

The United Kingdom, for example, broadly divides private-sector businesses into those that are unincorporated, i.e. with no legal difference between the owners and the company, and incorporated businesses with a separate legal identity from that of their owners. Sole traders and partnerships are unincorporated, while private limited companies (whose shares may not be

offered to the general public and are abbreviated as Ltd) and public limited companies (permitted to offer their shares to the public, have strict disclosure requirements and are abbreviated as Plc) are incorporated businesses.

The Croatian Companies Act (*Zakon o trgovačkim društvima*) classifies businesses differently. It distinguishes between ‘personal companies’ with individuals closely associated with the business (*društva osoba*) and ‘capital companies’ (*društva kapitala*) based on associating capital rather than persons, both types being legal entities. ‘Personal companies’ include both general (unlimited) partnerships (*javno trgovačko društvo – j.t.d.*) and limited partnerships (*komanditno društvo – k.d.*). ‘Capital companies’ are joint-stock companies (*dioničko društvo – d.d.*), limited liability companies (*društvo s ograničenom odgovornošću - d.o.o.*), and the economic interest grouping, or EIG (*gospodarsko-interesno udruženje [g.i.u.]*).

In addition to ‘personal’ and ‘capital’ companies, the Croatian Companies Act also regulates sole traders (*trgovac pojedinac - t.p.*) and silent partnerships (*tajno društvo*) as unincorporated businesses. A sole trader (*t.p.*) is registered in the Court Register as a natural person independently performing business activity. As a former *obrtnik* (a craftsman with no registration requirements regulated by the Croatian Crafts Act) who has reached the prescribed turnover threshold and may or has to register in the Court Register pursuant to the Companies Act, the sole trader must conduct business in compliance with the Croatian Companies Act. It has to be noted that in English law the sole trader is not regulated by the Companies Act, and it seems that the difference between the Croatian "craftsman" (*obrtnik* in the Croatian Crafts Act) and the Croatian "sole trader" (*trgovac pojedinac* in the Companies Act) has no match in English law. There is no registration requirement or any other formalities required for a sole trader in English law except for an obligation to maintain proper accounts for taxation purposes and to maintain proper records where the business is registered for VAT purposes (Maitland Walker 2007).

As regards silent partnerships (*tajno društvo*), which are also regulated by the Croatian Companies Act, they are established by a contract whereby one person (secret member/silent partner) invests certain assets in the business of another person and therefore has the right to

participate in the profits and losses of the business. A somewhat similar concept of civil partnership (*ortaštvo*) is regulated by the Croatian Obligations Act. However, unlike the silent partnership where the business in which the silent partner invests has legal personality, civil partnership has no legal personality.

### 3.1.1 Incorporated businesses vs. unincorporated businesses

Not surprisingly, false parallelisms are common when comparing business organisations in Croatia with those in the UK. For example, *d.d.* can often be taken for the Croatian equivalent of a public limited company, and *d.o.o.* for a private limited company. In such cases, it is forgotten that the UK and Croatia divide their businesses according to different criteria, unincorporated/incorporated and personal/capital companies respectively (see 3.1). In other words, all the companies covered by the Croatian Companies Act (*j.t.d.*, *k.d.*, *d.o.o.*, *d.d.*, *g.i.u.*) are legal entities, which is not the case in the UK system, where sole traders and partnerships are unincorporated entities. However, in Croatian law, sole traders and silent partnerships are also to be considered as unincorporated businesses but, in contrast to English law they are regulated by the Croatian Companies Act.

In addition, despite the apparent equivalence between the use of the term ‘partnership’ in Croatia and the UK, it appears that the basic difference between the common law use of the term ‘partnership’ and use of the expression in continental law is that in common law ‘partnership’ refers to an entity that has no legal capacity. On the other hand, in continental law ‘partnership’ is used both for a civil, contractual partnership (*ortaštvo*) and for certain specific types of (incorporated) company (‘personal companies’: *j.t.d.* and *k.d.*). Of course, the English term ‘partnership’ may be used as the closest, but not an equivalent expression to cover ‘personal companies’ in Croatia (*društva osoba*). Similarly, the term ‘general partnership’ may be used for *javno trgovačko društvo*, and ‘limited partnership’ for *komanditno društvo*. The term may also be used for the Croatian civil partnership (*ortaštvo*), a business organisation which has no separate legal identity from its members (*ortaci*), and in the previously described ‘silent partnership’ (see 3.1). However, one should always bear in mind that the proposed translations only represent the closest descriptions of similar concepts in separate jurisdictions.

### 3.1.2 Plc/Ltd vs. d.d./d.o.o.

Despite the fact that Croatian speakers often translate the Croatian *društvo s ograničenom odgovornošću (d.o.o.)* as ‘private limited company’ (Ltd), this business is most suitably translated literally (‘limited liability company’), as it best compares with the US limited liability company (LLC). Similarly, being the only type of company in Croatia that has shares and is not necessarily aiming to go public, the Croatian *dioničko društvo (d.d.)* is best translated only as ‘joint-stock company’ or ‘company limited by shares’ (Gorenc 2003) rather than as ‘public limited company’.

However, there are many similarities between *d.d.* and ‘plc’ (e.g. incorporated status, shares, limited liability, mandatory bodies, the ability to make shares available to the public). Although it might seem that the major difference between *d.d.* and ‘plc’ derives from the adjective ‘public’ in ‘public limited company’, it has to be emphasised that a ‘plc’ is not necessarily a publicly quoted company. This merely means, and this is a shared characteristic of both *d.d.* and ‘plc’, that it is a type of company which is *permitted* to offer its shares to the public. However, a company whose shares are quoted on the stock exchange will invariably be a public company. It should also be noted here that the ‘public’ *d.d. (javno dioničko društvo)*, introduced in the Croatian legal system by the Securities Market Act in 2002, a term which bore most resemblance to ‘plc’, is no longer in existence (Securities Market Act has been repealed as of January 1, 2009).

Additionally, when comparing a UK private limited company and a Croatian *d.o.o. (društvo s ograničenom odgovornošću)*, the major difference between these two types of business is that, unlike a *Ltd* company, a *d.o.o.* does not issue shares. In other words, in a *d.o.o.*, a distinction (unknown in common law) is made between a contribution to the company’s capital (*temeljni ulog*), and a business share (*poslovni udjel*) which defines the owner’s rights and obligations in the company. However, this is not a transferable security and cannot be sold as shares. It should be noted here that the sale of shares in a UK *Ltd* company to third parties is either not possible or is heavily regulated and restricted, which represents a similarity between the two legal systems. Another similarity is that the UK Companies Act of 2006 allows private limited companies to

pass decisions related to the company upon receiving the owner's agreement in writing without calling a general meeting.

### 3.1.3 Company formation – names of relevant documents

The name of the documents necessary for company formation ('constitutional documents') varies depending on the jurisdiction. In common law countries, there are two separate constitutional documents: (a) a memorandum of association (UK), or articles of incorporation/certificate of incorporation (US), which states the objects of the company and the details of its nominal capital, and (b) articles of association (UK), or bylaws (US), which contain provisions for the internal management of the company.

In Croatian company law, there is only one constitutional document which covers both sets of issues. As in any other jurisdiction, the name of such a document in Croatia depends on the type of company (*društveni ugovor* for a *j.t.d.*, *k.d.*, *d.o.o.* with two members or more; *statut* for a *d.d.*; *izjava o osnivanju* for a *d.o.o.* with only one member, and *ugovor o osnivanju* for a *g.i.u.*).

### 3.1.4 Company capitalisation

When establishing a company, it is necessary to raise finance for doing business. The term capitalisation refers to the act of providing capital for a company through the issuance of various securities. Initially, company capitalisation takes place through the issuance of shares as authorised in the 'constitutional document' of a company (a memorandum of association [UK] or articles of incorporation [US]).

There are several types of share: ordinary shares (UK) or common shares (US) (*redovne dionice*), preference shares (UK) or preferred stock (US) (*povlaštene dionice*), non-voting shares (UK) (*dionice bez prava glasa*), treasury shares (*vlastite dionice*, *trezorske dionice*), etc. In the US, the term 'capital stock' is used to mean 'share capital' (UK). Also, in the US the term

‘stock’ is often used to mean ‘shares’ (UK), and in both cases ‘equity’ is used as a synonym for ‘shares’ and ‘share capital’. It is also worth noting that in Britain the term ‘stock’ can refer to government bonds which are then called ‘government stock’. These examples illustrate the complexity of the language of finance, which deserves a separate paper of its own discussing ambiguities in teaching finance terminology.

### 3.2 Company management and corporate governance

In Croatian, the English term ‘corporate governance’ is often confused by non-specialists with ‘company management’. This is because the translation of ‘governance’ and ‘management’ is covered by one and the same term in Croatian (*upravljanje*). However, corporate governance is a much broader concept than managing a company. It involves all the stakeholders in a company, *i.e.* the shareholders, directors, and management of a company in the narrow sense of the term, as well as the stakeholders in a broader sense, which includes the employees, the government, etc.

A ‘stakeholder’ is another misleading expression for foreign speakers of English. Despite its frequent use in a range of fields, Business English students keep confusing the word for stockholders/shareholders. A practical way to explain this difference is to remind students that stakeholders always have a ‘stake’ in the company, be it their investment (shareholders), bonuses (management), careers and salaries (employees), jobs created and taxes paid (government), or even their health and where they live (neighbours). Therefore, while it is true that stockholders are the primary focus of corporate governance, it is obvious that they just represent one kind of stakeholder and are not the only parties interested in the good functioning of a company.

In addition, the highest governing bodies in companies are their boards (*odbori*). As simple as it may look, the meaning of the word ‘board’ may pose problems to business students, as one should first know what legal framework the company is subject to. German and Austrian (continental) company law systems envisage two-tier boards ensuring two functions necessary for the company: protection of the interests of its members (shareholders) and company management. The supervisory board (*nadzorni odbor*) represents the shareholders' interests and monitors the management board (*uprava*) which, in turn, is in charge of the daily operations of

the company. On the other hand, Anglo-American corporations have a board of directors as a one-tier body at the top of the corporate hierarchy. This by no means implies that the two functions of continental boards are not performed within the board of directors. Its members are directors recruited both from the company (inside directors/executives), thus having executive powers in daily management, and from outside as non-executive directors whose role is to supervise the overall functioning of the company (outside directors/non-executives).

In Croatia, the situation has become even more complicated with recent amendments to the Companies Act in 2007 allowing Croatian companies (*d.d.*) to choose between one-tier or two-tier systems in establishing their business. This seems to be the result of harmonising tendencies between different legal systems and the prevalence of Anglo-American ways of doing business. Since 2008, when the Croatian company law system was changed to accommodate both one-tier and two-tier systems, a distinction has had to be observed between the ‘management board’ (*uprava* in the old, two-tier system) and the ‘board of directors’ (*upravni odbor*) in the new one-tier system.

### 3.3 Fundamental changes in a company (mergers and acquisitions)

The term ‘mergers and acquisitions’ is widely used to cover situations where companies experience fundamental changes due to various interactions between the companies in the market. As one element of the frequently used pair of words, ‘mergers’ (usually understood as companies joining together on an equal basis) can easily be perceived only as being an opposite to ‘acquisitions’ (a stronger company taking over a weaker competitor). This appears to be only partly true in business and entirely untrue in the legal context as the relationship between the two words goes far beyond opposition. Moreover, both business and law may have a different focus of interpretation, which should be taken into account when teaching terminology in an interdisciplinary context.

In business, ‘mergers’ are broadly defined as a general term used to refer to a combination of two or more companies. In the pure sense of the term, ‘a merger of equals’ in business is a “combination of two firms of about the same size to form a single company, in which



shareholders from both firms surrender their shares and receive securities issued by the new company resulting from the merger” (Investopedia 2008). In the case of Daimler-Benz and Chrysler, for example, both companies disappeared when the two firms merged, and a new company, DaimlerChrysler, was created. However, mergers of equals rarely happen in business. It is often more likely that a company will voluntarily accept being acquired by another company and that the senior management of both companies will agree that such an action will be of benefit to the companies involved. The acquired company will then disappear, but such a ‘friendly acquisition’ (‘friendly takeover’) may be called a merger in order for the acquired company to save face in public. On the other hand, the acquirer in a ‘hostile acquisition’ (‘hostile takeover’) takes over the target company against the wishes of its senior managers and becomes its owner. The acquired company ceases to exist, and the buyer’s stock continues to be traded (Investopedia 2008). This can be done by winning the votes of the shareholders at the general meeting or by making a takeover bid to the target company’s shareholders in order to assume control of the firm (Tipurić et al. 2008).

It follows that whether a corporate action is considered a ‘merger’ or an ‘acquisition’ in business really depends on whether it is friendly or hostile and how it is announced. Collocations such as ‘cross-border mergers’ or ‘mergers and acquisitions’ are therefore generally used to cover both concepts. This may be because the world of business is primarily interested in the strength of a new competitor on the market regardless of its legal history, and prefers to use the term ‘mergers’ for its apparent lexical transparency (joining together, becoming one company) rather than for its legal precision.

In contrast to the business community, lawyers, both in Croatian and in English, clearly distinguish between a ‘merger’ (*pripajanje*) and a ‘consolidation’ (*spajanje*). In a merger, the acquired company (*pripojeno društvo*) ceases to exist and is absorbed into the acquiring company (*društvo preuzimatelj*), while a consolidation (*spajanje*) takes place when both companies disappear and a new company is formed (*Zakon o trgovačkim društvima*). For a lawyer, translating the term ‘merger’ as *spajanje* (consolidation) is perceived as a ubiquitous mistake found even in some English-Croatian business dictionaries. A Croatian law professor (Barbić 2007) will thus consistently refer to *prekogranična pripajanja i spajanja* (cross-border

mergers and consolidations) in his writing. On the other hand, distinguished business publications such as *The Economist* commonly write about ‘cross-border mergers’ in Europe, and a Croatian management author (Tipurić et al. 2008) translates *spajanje* as ‘merger’ adding that in this case “a company does not necessarily absorb another company, but that it is also possible to create a new company so that both companies’ stocks will then be replaced by the stock of the newly formed company.” (translated by the authors). In fact, such examples illustrate differences in business and legal interpretations which language teachers should be aware of so they can warn their students of the importance of the context, business or legal, for correct interpretation of the terms used.

#### 4. Conclusion

Due to its complexity and different legal traditions, the language of law poses particular challenges for a non-specialist. The aim of this paper was therefore to point to the need for extra competences of language teachers and for an interdisciplinary approach in teaching legal terminology as part of an advanced Business English course. This is especially so in business terminology related to company law, as it is a field with numerous dangers of misinterpretation.

However, obstacles in teaching legal terminology in language classes should not be overemphasised. With regard to legal aspects of Business English, teaching should focus on terminology related to internationally recognisable principles (concepts) and should not insist on accurate terms specific to local legislation.

The role of a Business English teacher is thus to identify and possibly resolve terminological ambiguities with a legal professional, but above all, to make students aware of potential language problems and to teach them caution. Similarly, when in doubt, a highly motivated teacher will always be prepared to consult a specialist and search for precise information from different sources, which this paper has also attempted to contribute to.

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